

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JAMES N. COOKE
and
PATRICIA A. COOKE

Claim No. CU-0779

Decision No. CU-338

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

This claim presented by JAMES N. COOKE and based upon the asserted loss of certain real and personal property in Cuba was denied by the Commission by Proposed Decision issued September 20, 1967, inasmuch as the evidence of record was insufficient to establish the claim. Evidence has since been submitted establishing that claimant and his wife have been nationals of the United States since birth, and that PATRICIA A. COOKE has an ownership interest in the claimed property. Accordingly, she is joined as claimant.

Since the issuance of the Proposed Decision, claimants have submitted a deed to land on the Isle of Pines, bank statements, shipping records, photos and correspondence. On the basis of the present record, the Commission now finds that claimants were the joint owners of a house and lot in Santa Fe, Cuba, with the personal property located therein, a bank account in the Banco Continental Cubano, and a tire retreading business with the necessary equipment in Santa Fe.

The Commission further finds that the house and lot with the personal property were taken by the Government of Cuba on October 14, 1960 pursuant to the Urban Reform Law and that the bank account and tire retreading business were taken on December 6, 1961, pursuant to Cuban Law 989.

The total value of the property taken by the Government of Cuba is asserted to be \$20,700.00. After consideration of all the evidence of record, the Commission finds that the house and lot had a value of \$9,000.00 at the

time of loss, the claimed values of \$3,350.00 for the tire retreading equipment and material and \$5,250.00 for the personal property (including a boat, hunting and fishing equipment and household furnishings) are fair and reasonable, and that the bank account had a balance of \$1,821.20 when taken. The Commission concludes that claimants jointly suffered a total loss of \$19,421.20 within the meaning of Title V of the Act as a result of the actions of the Government of Cuba on October 14, 1960 and December 6, 1961.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant claim it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
October 14, 1960	\$14,250.00
December 6, 1961	<u>5,171.20</u>
	\$19,421.20

Accordingly, the following certification of loss will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that JAMES N. COOKE and PATRICIA A. COOKE jointly suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Nineteen Thousand Four Hundred Twenty-One Dollars and Twenty Cents (\$19,421.20) with interest thereon at 6% per annum from the aforesaid dates of loss to the date of settlement.

Dated at Washington, D. C. and entered as the Amended Proposed Decision of the Commission

JUN 30 1971


Leo S. Carlock, Chairman


Theodore J. Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JAMES N. COOKE

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0779

Decision No. CU 338

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$20,700.00, was presented by JAMES N. COOKE, and is based upon the asserted loss of a bank account, improved real property and personal property in Cuba. Claimant stated he has been a national of the United States since his birth on November 24, 1921 in Medford, Massachusetts.

Under Title V of the International Claims Settlement Act of 1949 (78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965) 7, the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts a loss of a bank account in the Continental Bank in Cuba, a tire retreading business, personal property and improved real property in Santa Fe, Isle de Pinos, Cuba. However, claimant has submitted no documentary evidence in support of his claim. By Commission letter of August 3, 1966, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letters of October 26, 1966 and November 30, 1966, the Commission made additional suggestions to claimant concerning the submission of supporting evidence in this matter. However, no evidence in response to this correspondence has been received to date. On June 1, 1967, claimant was invited to submit the suggested evidence within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

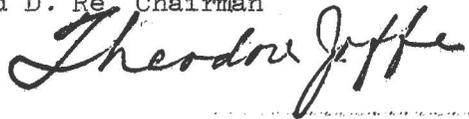
The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D.C.,
and entered as the Proposed
Decision of the Commission

SEP 20 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU-0779